

Executive Summary – Enforcement Matter – Case No. 45716
Equistar Chemicals, LP
RN100216761
Docket No. 2012-2572-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

LyondellBasell Bayport Polymers, 12001 Bay Area Boulevard, Pasadena, Harris County

Type of Operation:

Chemical manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, Docket No. 2013-0122-AIR-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 12, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$17,848

Amount Deferred for Expedited Settlement: \$3,569

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$7,140

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$7,139

Name of SEP: Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 45716

Equistar Chemicals, LP

RN100216761

Docket No. 2012-2572-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 30, 2012

Date(s) of NOE(s): November 21, 2012

Violation Information

1. Failed to submit 40 CODE OF FEDERAL REGULATIONS ("CFR") Part 60 Subpart DDD semiannual reports. Specifically, semiannual reports were not submitted for the periods starting with ownership of the Plant from April 30, 2010 through June 30, 2010; July 1, 2010 through December 31, 2010; January 1, 2011 through June 30, 2011; and July 1, 2011 through December 31, 2011 [Federal Operating Permit ("FOP") No. O1419, Special Terms and Conditions No. 1.A., 40 CFR § 60.565(k), 30 TEX. ADMIN. CODE §§ 101.20(1) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to operate the continuous emissions monitoring systems ("CEMS") at least 95% of the time when the flare is operational. Specifically, the CEMS for Flare 81 was only operational 82.6% of the time the flare was in operation during calendar year 2011. In addition, as of October 30, 2012, the CEMS for Flare 81 was only operational 88% of the time the flare was in operation and the CEMS for Flare 30 was only operational 92.2% of the time the flare was in operation [FOP No. O1419, Special Terms and Conditions No. 1.A., 30 Tex. Admin. Code §§ 115.725(d)(3) and 122.143(4), and Tex. Health & Safety Code § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures:

- a. On or before July 30, 2012, procedures were updated to ensure that 40 CFR Part 60 Subpart DDD semiannual reports are submitted as required; and
- b. On or before October 30, 2012, procedures were revised to classify the flow meters on the CEMS as environmentally critical and given high priority for repairs.

Technical Requirements:

The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

Litigation Information

Date Petition(s) Filed: N/A

Executive Summary – Enforcement Matter – Case No. 45716
Equistar Chemicals, LP
RN100216761
Docket No. 2012-2572-AIR-E

Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Rebecca Johnson, Enforcement Division,
Enforcement Team 5, MC R-14, (361) 825-3423; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456.
TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division,
MC 219, (512) 239-3565
Respondent: Walter Pinto, Site Manager, Equistar Chemicals, LP, 12001 Bay Area
Boulevard, Pasadena, Texas 77507
Respondent's Attorney: N/A

Attachment A
Docket Number: 2012-2572-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

| | |
|-------------------------------|--|
| Respondent: | Equistar Chemicals, LP |
| Penalty Amount: | Fourteen Thousand Two Hundred Seventy-Nine Dollars (\$14,279) |
| SEP Amount: | Seven Thousand One Hundred Thirty-Nine Dollars (\$7,139) |
| Type of SEP: | Contribution to a Third-Party Pre-Approved SEP |
| Third-Party Recipient: | Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program |
| Location of SEP: | Texas Air Quality Control Region 216 – Houston-Galveston |

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to **Houston-Galveston AERCO** for the **Clean Cities/Clean Vehicles Program** as set forth in an agreement between the Third-Party Recipient and the TCEQ. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's Congestion Mitigation/Air Quality Funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the Environmental Protection Agency ("EPA"). SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, nitrogen oxides reduction catalyst technology in combination with diesel

Equistar Chemicals, LP
Agreed Order - Attachment A

particulate filters, and other emission control technologies that are developed and approved by the EPA or the California Air Resources Board.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions of buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

c. Minimum Expenditure

Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council
Houston-Galveston AERCO
Attn.: Robert Veazie, Air Quality Planner
P.O. Box 22777
Houston, Texas 77227-2777

3. Records and Reporting

Concurrent with the payment of the SEP amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|------------|----------------|-------------|
| DATES | Assigned | 26-Nov-2012 | Screening | 5-Dec-2012 | EPA Due | 17-Aug-2013 |
| | PCW | 5-Dec-2012 | | | | |

RESPONDENT/FACILITY INFORMATION

| | | | | | |
|-----------------------------|------------------------|---------------------------|-------|--|--|
| Respondent | Equistar Chemicals, LP | | | | |
| Reg. Ent. Ref. No. | RN100216761 | | | | |
| Facility/Site Region | 12-Houston | Major/Minor Source | Major | | |

CASE INFORMATION

| | | | |
|--|-----------------|------------------------------|--------------------|
| Enf./Case ID No. | 45716 | No. of Violations | 1 |
| Docket No. | 2012-2572-AIR-E | Order Type | 1660 |
| Media Program(s) | Air | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Rebecca Johnson |
| | | EC's Team | Enforcement Team 5 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$7,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **46.0%** Enhancement **Subtotals 2, 3, & 7** **\$3,450**

Notes: Enhancement for one NOV with same/similar violations, two NOVs with dissimilar violations, and two orders with denial of liability. Reduction for three Notices of Intent to conduct an audit.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$1,875**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts: \$100
Approx. Cost of Compliance: \$1,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$9,075**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$9,075**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$9,075**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,815**

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$7,260**

Screening Date 5-Dec-2012

Docket No. 2012-2572-AIR-E

PCW

Respondent Equistar Chemicals, LP

Policy Revision 2 (September 2002)

Case ID No. 45716

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100216761

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 1 | 5% |
| | Other written NOVs | 2 | 4% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 2 | 40% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 3 | -3% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |
| Please Enter Yes or No | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 46%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations, two NOVs with dissimilar violations, and two orders with denial of liability. Reduction for three Notices of Intent to conduct an audit.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 46%

Screening Date 5-Dec-2012

Docket No. 2012-2572-AIR-E

PCW

Respondent Equistar Chemicals, LP

Policy Revision 2 (September 2002)

Case ID No. 45716

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100216761

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 1

Rule Cite(s) Federal Operating Permit No. 01419, Special Terms and Conditions No. 1.A., 40 Code of Federal Regulations ("CFR") § 60.565(k), 30 Tex. Admin. Code §§ 101.20(1) and 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit 40 CFR Part 60 Subpart DDD semiannual reports. Specifically, semiannual reports were not submitted for the periods starting with ownership of the Plant from April 30, 2010 through June 30, 2010; July 1, 2010 through December 31, 2010; and January 1, 2011 through June 30, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| | Harm | | |
|-----------|-------|----------|-------|
| Release | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | |

Percent 0%

>> Programmatic Matrix

| | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| Falsification | | | |
| | X | | |

Percent 25%

Matrix Notes

The Respondent failed to meet 100% of the rule requirements.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3

731 Number of violation days

mark only one
with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | X |

Violation Base Penalty \$7,500

Three single events are recommended for the three reports that were not submitted.

Good Faith Efforts to Comply

25.0% Reduction

\$1,875

| | Before NOV | NOV to EDPRP/Settlement Offer |
|---------------|------------|-------------------------------|
| Extraordinary | | |
| Ordinary | X | |
| N/A | | (mark with x) |

Notes

The Respondent completed corrective actions on July 30, 2012, prior to the November 21, 2012 NOE.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$100

Violation Final Penalty Total \$9,075

This violation Final Assessed Penalty (adjusted for limits) \$9,075

Economic Benefit Worksheet

Respondent Equistar Chemicals, LP
Case ID No. 45716
Reg. Ent. Reference No. RN100216761
Media Air
Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|---------|-------------|-------------|------|-------|-----|-------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$1,000 | 30-Jul-2010 | 30-Jul-2012 | 2.00 | \$100 | n/a | \$100 |

Notes for DELAYED costs

Estimated cost to implement measures to ensure that 40 CFR Part 60 Subpart DDD reports are submitted as required. The Date Required is the report due date. The Final Date is the date corrective actions were completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$100



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|------------|----------------|-------------|
| DATES | Assigned | 26-Nov-2012 | Screening | 5-Dec-2012 | EPA Due | 17-Aug-2013 |
| | PCW | 5-Dec-2012 | | | | |

RESPONDENT/FACILITY INFORMATION

| | | | | | |
|-----------------------------|------------------------|---------------------------|-------|--|--|
| Respondent | Equistar Chemicals, LP | | | | |
| Reg. Ent. Ref. No. | RN100216761 | | | | |
| Facility/Site Region | 12-Houston | Major/Minor Source | Major | | |

CASE INFORMATION

| | | | |
|--|-----------------|------------------------------|--------------------|
| Enf./Case ID No. | 45716 | No. of Violations | 2 |
| Docket No. | 2012-2572-AIR-E | Order Type | 1660 |
| Media Program(s) | Air | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Rebecca Johnson |
| | | EC's Team | Enforcement Team 5 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$25,000 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$7,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **46.0%** Enhancement **Subtotals 2, 3, & 7** **\$3,335**

Notes: Enhancement for one NOV with same/similar violations, two NOVs with dissimilar violations, and two orders with denial of liability. Reduction for three Notices of Intent to conduct an audit.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$1,812**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts: \$83
Approx. Cost of Compliance: \$2,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$8,773**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$8,773**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$8,773**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,754**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$7,019**

Screening Date 5-Dec-2012

Docket No. 2012-2572-AIR-E

PCW

Respondent Equistar Chemicals, LP

Policy Revision 3 (September 2011)

Case ID No. 45716

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100216761

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 1 | 5% |
| | Other written NOVs | 2 | 4% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 2 | 40% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 3 | -3% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |
| Please Enter Yes or No | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 46%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations, two NOVs with dissimilar violations, and two orders with denial of liability. Reduction for three Notices of Intent to conduct an audit.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 46%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 46%

Screening Date 5-Dec-2012

Docket No. 2012-2572-AIR-E

PCW

Respondent Equistar Chemicals, LP

Policy Revision 3 (September 2011)

Case ID No. 45716

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100216761

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 1

Rule Cite(s) Federal Operating Permit No. 01419, Special Terms and Conditions No. 1.A., 30 Tex. Admin. Code §§ 115.725(d)(3) and 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to operate the continuous emissions monitoring system ("CEMS") at least 95% of the time when the flare is operational. Specifically, the CEMS for Flare 81 was only operational 82.6% of the time the flare was in operation during calendar year 2011. In addition, as of October 30, 2012, the CEMS for Flare 81 was only operational 88% of the time the flare was in operation and the CEMS for Flare 30 was only operational 92.2% of the time the flare was in operation.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | x |

Percent 7.0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to an insignificant amount of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$23,250

\$1,750

Violation Events

Number of Violation Events 2

340 Number of violation days

mark only one with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

Violation Base Penalty \$3,500

Two single events are recommended, one for each CEMS.

Good Faith Efforts to Comply

25.0% Reduction

\$875

Before NOV NOV to EDRP/Settlement Offer

| | | |
|---------------|---|---------------|
| Extraordinary | | |
| Ordinary | x | |
| N/A | | (mark with x) |

Notes

The Respondent completed corrective actions on October 30, 2012, prior to the November 12, 2012 NOE.

Violation Subtotal \$2,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$83

Violation Final Penalty Total \$4,235

This violation Final Assessed Penalty (adjusted for limits) \$4,235

Economic Benefit Worksheet

Respondent Equistar Chemicals, LP
Case ID No. 45716
Reg. Ent. Reference No. RN100216761
Media Air
Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|---------|-------------|-------------|------|------|-----|------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$2,000 | 31-Dec-2011 | 30-Oct-2012 | 0.83 | \$83 | n/a | \$83 |

Notes for DELAYED costs

Estimated cost to revise procedures to ensure that critical repairs to the CEMS are given high priority. The Date Required is the earliest occurrence of the violation. The Final Date is the date corrective actions were completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$83

Screening Date 5-Dec-2012
Respondent Equistar Chemicals, LP
Case ID No. 45716
Reg. Ent. Reference No. RN100216761
Media [Statute] Air
Enf. Coordinator Rebecca Johnson

Docket No. 2012-2572-AIR-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number 2

Rule Cite(s)

Federal Operating Permit No. 01419, Special Terms and Conditions No. 1.A., 40 Code of Federal Regulations ("CFR") § 60.565(k), 30 Tex. Admin. Code §§ 101.20(1) and 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit 40 CFR Part 60 Subpart DDD semiannual reports. Specifically, a semiannual report was not submitted for the period from July 1, 2011 through December 31, 2011.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | |

Percent 0.0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | x | | |

Percent 15.0%

Matrix Notes

The Respondent failed to meet 100% of the rule requirements.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

182 **Number of violation days**

mark only one with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

Violation Base Penalty \$3,750

One single event is recommended for the one report that was not submitted.

Good Faith Efforts to Comply

25.0% Reduction

\$937

| | Before NOV | NOV to EDPRP/Settlement Offer |
|---------------|------------|-------------------------------|
| Extraordinary | | |
| Ordinary | x | |
| N/A | | (mark with x) |

Notes

The Respondent completed corrective actions on July 30, 2012, prior to the November 21, 2012 NOE.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$4,538

This violation Final Assessed Penalty (adjusted for limits) \$4,538

Economic Benefit Worksheet

Respondent Equistar Chemicals, LP
Case ID No. 45716
Reg. Ent. Reference No. RN100216761
Media Air
Violation No. 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|--|--|--|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

The Economic Benefit for this violation is included in Violation No. 1 of the accompanying PCW.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0



Compliance History Report

PUBLISHED Compliance History Report for CN600124705, RN100216761, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

| | | | | | |
|---|--|-------------------------|--------------|----------------|-------|
| Customer, Respondent, or Owner/Operator: | CN600124705, Equistar Chemicals, LP | Classification: | SATISFACTORY | Rating: | 14.12 |
| Regulated Entity: | RN100216761, LYONDELLBASELL BAYPORT POLYMERS | Classification: | SATISFACTORY | Rating: | 6.34 |
| Complexity Points: | 15 | Repeat Violator: | NO | | |
| CH Group: | 05 - Chemical Manufacturing | | | | |
| Location: | 12001 BAY AREA BLVD PASADENA, TX 77507-1309, HARRIS COUNTY | | | | |
| TCEQ Region: | REGION 12 - HOUSTON | | | | |

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER HG0323M
POLLUTION PREVENTION PLANNING ID NUMBER P00307

AIR OPERATING PERMITS PERMIT 1419
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1011568

AIR NEW SOURCE PERMITS PERMIT 9423
AIR NEW SOURCE PERMITS PERMIT 19546
AIR NEW SOURCE PERMITS REGISTRATION 75465
AIR NEW SOURCE PERMITS REGISTRATION 72217
INDUSTRIAL AND HAZARDOUS WASTE EPA ID
TXD077424885
WATER LICENSING LICENSE 1011568
AIR EMISSIONS INVENTORY ACCOUNT NUMBER HG0323M

AIR NEW SOURCE PERMITS REGISTRATION 15459
AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG0323M
AIR NEW SOURCE PERMITS AFS NUM 4820100291
AIR NEW SOURCE PERMITS REGISTRATION 101963
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE
REGISTRATION # (SWR) 30422
STORMWATER PERMIT TXR05Z332

| | | | | | |
|---|---------------------------------------|---------------------|----------------|---------------------|------------|
| Compliance History Period: | September 01, 2007 to August 31, 2012 | Rating Year: | 2012 | Rating Date: | 09/01/2012 |
| Date Compliance History Report Prepared: | January 16, 2013 | | | | |
| Agency Decision Requiring Compliance History: | Enforcement | | | | |
| Component Period Selected: | January 16, 2008 to January 16, 2013 | | | | |
| TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History. | | | | | |
| Name: | Rebecca Johnson | Phone: | (361) 825-3423 | | |

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? YES
- 3) If YES for #2, who is the current owner/operator? Equistar Chemicals, LP
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? Basell USA Inc.
- 5) If YES, when did the change(s) in owner or operator occur? 4/20/2010

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 03/20/2010 ADMINORDER 2009-0182-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: Special Condition 1 PERMIT
Description: Failed to prevent unauthorized emissions during Incident No. 112149.
- 2 Effective Date: 05/22/2011 ADMINORDER 2010-0708-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Description: Failed to prevent the unauthorized release of 726.4 pounds ("lbs") of volatile organic compounds, 39.85 lbs of nitrous oxide, and 88.4 lbs of carbon monoxide from Flare 34 during an emissions event (Incident No. 132605) starting on November 29, 2009 and lasting 15 hours. The event was caused by the C Line Process Unit plugging from a sudden restriction downstream of the C Line Reactors.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

| | | |
|---------|-------------------|-----------|
| Item 1 | January 18, 2008 | (609299) |
| Item 2 | April 01, 2008 | (612068) |
| Item 3 | May 22, 2008 | (646420) |
| Item 4 | August 28, 2008 | (701462) |
| Item 5 | July 01, 2009 | (740763) |
| Item 6 | January 08, 2010 | (783256) |
| Item 7 | November 08, 2011 | (958569) |
| Item 8 | January 25, 2012 | (981120) |
| Item 9 | May 17, 2012 | (1003354) |
| Item 10 | October 26, 2012 | (1022675) |

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

| | | | |
|---|---|--------------------------|--|
| 1 | Date: 03/02/2012 (983792) | CN600124705 | |
| | Self Report? NO | Classification: Moderate | |
| | Citation: 30 TAC Chapter 116, SubChapter B 116.115(c) 5C THSC Chapter 382 382.085(b) SC 1 OP | | |
| | Description: Lyondellbasell failed to prevent an emission of 523.86lbs of unauthorized VOC during an Emission Event. | | |
| 2 | Date: 10/02/2012 (1022657) | CN600124705 | |
| | Self Report? NO | Classification: Moderate | |
| | Citation: 30 TAC Chapter 116, SubChapter B 116.115(c) 5C THSC Chapter 382 382.085(b) Special condition 1 PERMIT | | |
| | Description: Failure to prevent unauthorized emissions due to plugging up of the steamer S4501 bottoms valve LV4501. | | |
| 3 | Date: 11/21/2012 (1029163) | CN600124705 | |
| | Self Report? NO | Classification: Minor | |
| | Citation: 30 TAC Chapter 122, SubChapter B 122.143(4) 30 TAC Chapter 122, SubChapter B 122.145(2)(A) 5C THSC Chapter 382 382.085(b) General Terms and Conditions OP | | |
| | Description: Failure to report all instances of deviation. (Category B3 Violation) | | |
| | Self Report? NO | Classification: Moderate | |
| | Citation: 30 TAC Chapter 115, SubChapter H 115.722(d) 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(3)(ii) 5C THSC Chapter 382 382.085(b) Special Condition 5A PERMIT Special Term and Condition 11 OP Special Term and Condition 1A OP | | |
| | Description: Failure to maintain the flare minimum net heating value. (Category B18 Violation) | | |
| | Self Report? NO | Classification: Minor | |

| | |
|--------------|---|
| Citation: | 30 TAC Chapter 115, SubChapter D 115.354(5) 30 TAC Chapter 115, SubChapter H 115.782(a) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Term and Condition 1A OP |
| Description: | Failure to properly label leaking components. (Category C1 Violation) |
| Self Report? | NO Classification: Minor |
| Citation: | 30 TAC Chapter 115, SubChapter D 115.354(1)(B) 30 TAC Chapter 115, SubChapter H 115.781(b)(7)(B) 30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(h)(3) 5C THSC Chapter 382 382.085(b) Special Conditon 13F PERMIT Special Conditon 14F PERMIT Special Term and Condition 11 OP Special Term and Condition 1A OP |
| Description: | Failure to monitor fugitive components. (Category C1 Violation) |
| Self Report? | NO Classification: Minor |
| Citation: | 30 TAC Chapter 115, SubChapter H 115.725(d)(1) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Term and Condition 1A OP |
| Description: | Failure to perform calibrations within the required time frame. (Category C4 Violation) |
| Self Report? | NO Classification: Minor |
| Citation: | 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Condition 14 PERMIT Special Term and Condition 11 OP |
| Description: | Failure to address an ammonia leak within the required timeframe. (Category C1 Violation) |

F. Environmental audits:

Notice of Intent Date: 07/02/2008 (32792)

No DOV Associated

Notice of Intent Date: 07/01/2010 (841071)

No DOV Associated

Notice of Intent Date: 09/10/2010 (870655)

No DOV Associated

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
EQUISTAR CHEMICALS, LP
RN100216761**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2012-2572-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Equistar Chemicals, LP ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a chemical manufacturing plant at 12001 Bay Area Boulevard in Pasadena, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 26, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seventeen Thousand Eight Hundred Forty-Eight Dollars (\$17,848) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Thousand One Hundred Forty Dollars (\$7,140) of the administrative penalty and Three

Thousand Five Hundred Sixty-Nine Dollars (\$3,569) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Seven Thousand One Hundred Thirty-Nine Dollars (\$7,139) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. On or before July 30, 2012, procedures were updated to ensure that 40 CODE OF FEDERAL REGULATIONS ("CFR") Part 60 Subpart DDD semiannual reports are submitted as required; and
 - b. On or before October 30, 2012, procedures were revised to classify the flow meters on the continuous emissions monitoring systems ("CEMS") as environmentally critical and given high priority for repairs.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to submit 40 CFR Part 60 Subpart DDD semiannual reports, in violation of Federal Operating Permit ("FOP") No. O1419, Special Terms and Conditions No. 1.A., 40 CFR § 60.565(k), 30 TEX. ADMIN. CODE §§ 101.20(1) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on October 30, 2012. Specifically, semiannual reports were not submitted for the periods starting with ownership of the Plant from April 30, 2010 through June 30, 2010; July 1, 2010

through December 31, 2010; January 1, 2011 through June 30, 2011; and July 1, 2011 through December 31, 2011.

2. Failed to operate the CEMS at least 95% of the time when the flare is operational, in violation of FOP No. O1419, Special Terms and Conditions No. 1.A., 30 TEX. ADMIN. CODE §§ 115.725(d)(3) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on October 30, 2012. Specifically, the CEMS for Flare 81 was only operational 82.6% of the time the flare was in operation during calendar year 2011. In addition, as of October 30, 2012, the CEMS for Flare 81 was only operational 88% of the time the flare was in operation and the CEMS for Flare 30 was only operational 92.2% of the time the flare was in operation.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Equistar Chemicals, LP, Docket No. 2012-2572-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Seven Thousand One Hundred Thirty-Nine Dollars (\$7,139) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a

violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

9/3/13

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

4/12/2013

Date

Walter Pinto

Name (Printed or typed)
Authorized Representative of
Equistar Chemicals, LP

Site MANAGER

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2012-2572-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

| | |
|-------------------------------|--|
| Respondent: | Equistar Chemicals, LP |
| Penalty Amount: | Fourteen Thousand Two Hundred Seventy-Nine Dollars (\$14,279) |
| SEP Amount: | Seven Thousand One Hundred Thirty-Nine Dollars (\$7,139) |
| Type of SEP: | Contribution to a Third-Party Pre-Approved SEP |
| Third-Party Recipient: | Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program |
| Location of SEP: | Texas Air Quality Control Region 216 – Houston-Galveston |

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to **Houston-Galveston AERCO** for the **Clean Cities/Clean Vehicles Program** as set forth in an agreement between the Third-Party Recipient and the TCEQ. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's Congestion Mitigation/Air Quality Funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the Environmental Protection Agency ("EPA"). SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, nitrogen oxides reduction catalyst technology in combination with diesel

Equistar Chemicals, LP
Agreed Order - Attachment A

particulate filters, and other emission control technologies that are developed and approved by the EPA or the California Air Resources Board.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions of buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

c. Minimum Expenditure

Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council
Houston-Galveston AERCO
Attn.: Robert Veazie, Air Quality Planner
P.O. Box 22777
Houston, Texas 77227-2777

3. Records and Reporting

Concurrent with the payment of the SEP amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.